

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JOSEPH OAKES and SYLVIA OAKES,  
husband and wife,

Plaintiffs,

v.

HOLLAND AMERICA LINE, N.V., a  
Curacao corporation, *et al.*,

Defendants.

Case No. C14-1257 RSM

ORDER DENYING DEFENDANTS'  
MOTION TO CONTINUE TRIAL DATE

This matter comes before the Court on Defendants' Motion to Continue Trial Date. Dkt. #15. Plaintiffs oppose the continuance. Dkt. #19. For the reasons below, the Court finds Defendants have failed to present a compelling reason to justify continuing the trial date.

Plaintiff Joseph Oakes alleges injury on a cruise ship occurring on August 15, 2013. Dkt. #1 at 3-4. Plaintiffs filed this lawsuit on August 14, 2014. *Id.* at 7. On October 2, 2014, the parties were informed of their trial date, November 2, 2015. Dkt. #10. On August 20, 2015, Defendants brought this Motion seeking to continue trial to January, 2016. Dkt. #15.

Defendants cite three reasons for their request. First, Defendants argue that they have a trial conflict with another case, *Hausman v. Holland Am. Line-USA*, Case No. 13-937BJR, set for "two to three weeks" to begin October 19, 2015. Dkt. #15 at 2-3. Second, Defendants

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1 argue that witnesses Dr. Jackson Horsely and Nurse Elaine Almquist, who examined Plaintiff  
2 onboard the vessel where the injury occurred, “will be working aboard cruise ships until early  
3 December and therefore are unavailable for trial.” *Id.* at 4. Third, Defendants argue that the  
4 recently extended mediation date of October 7, 2015, does not provide “sufficient time [to]  
5 negotiate prior to trial.” *Id.* at 5.<sup>1</sup>  
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7 In Response to Defendants’ first reason, Plaintiffs argue that there does not appear to be  
8 a direct scheduling conflict between *Hausman* and this case. Dkt. #19 at 4. To the second  
9 reason, Plaintiffs argue that Defendants have known of the trial date for nearly a year, have had  
10 ample opportunity to coordinate the work schedules of their key witnesses, and can still  
11 currently “make scheduling adjustments.” *Id.* at 3. To the third reason, Plaintiffs point out  
12 that Defendants fail to provide any support for the contention that the current mediation date  
13 will not afford enough time to negotiate prior to trial. *Id.* at 3. Finally, Plaintiffs argue that a  
14 continuance of the trial will unfairly prejudice Plaintiffs, and would not likely be a “brief”  
15 continuance due to further scheduling conflicts. *Id.* at 4.  
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18 Rule 16(b)(4) provides that a “schedule may be modified only for good cause and with  
19 the judge's consent.” As to Defendants’ first reason for the continuance, upon review of the  
20 docket in the *Hausman* case, it appears that there is not an actual trial conflict, but rather the  
21 scheduling of back-to-back trials. *See* Case No. 13-937BJR, Dkt. #131 (Minute Entry stating  
22 “the jury trial shall last 2 weeks”); Dkt. #134 (Minute Order setting trial with four days for each  
23 side). Defendants’ statement that “the trial is expected to go as long as three weeks,” made on  
24 September 3, 2015, a day after the above Minute Entry set trial as two weeks, is disingenuous.  
25 *See* Dkt. # 20 at 5. While the scheduling of back-to-back trials is less than ideal, it appears that  
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28 <sup>1</sup> Defendants also appear to argue that Plaintiffs’ extensive travel plans during this litigation have slowed the pace of discovery, but do not adequately connect this argument with a reason for extending the trial date further. *See* Dkt. #15 at 5.

1 Defendants knew of this issue as early as June 2, 2015, when the *Hausman* trial was  
2 rescheduled, yet waited over two months to file the instant Motion. *See* Case No. 13-937BJR,  
3 Minute Order dated June 2, 2015 (setting a trial date of October 19, 2015). Considering all of  
4 the above, the Court finds Defendants' first reason fails to constitute good cause for a  
5 continuance.  
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7 As to Defendants' second reason—witnesses at sea—the Court finds that Defendants  
8 have had ample warning of the need to make these individuals available for trial in November.  
9 Defendants presumably have heightened control over the availability of their own employees,  
10 and offer no explanation for their inability to make these witnesses available other than that  
11 their employment will take them abroad, an entirely foreseeable problem for a cruise line. The  
12 Court finds this reason fails to constitute good cause.  
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14 As to Defendants' third reason—the proximity of mediation to trial—the Court finds  
15 that Defendants have failed to persuade the Court that the current time between mediation and  
16 trial is insufficient for negotiations, and thus this reason fails to constitute good cause.  
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18 Having reviewed the relevant pleadings, the declarations and exhibits attached thereto,  
19 and the remainder of the record, the Court hereby finds and ORDERS that Defendants' Motion  
20 to Continue Trial Date, Dkt. #15 is DENIED. Trial remains set for November 2, 2015.  
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22 DATED this 16<sup>th</sup> day of September 2015.

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24 RICARDO S. MARTINEZ  
25 UNITED STATES DISTRICT JUDGE  
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